

Senate Bill 193

By: Senators Wiles of the 37th, Johnson of the 1st, Weber of the 40th, Balfour of the 9th and Harp of the 29th

A BILL TO BE ENTITLED  
AN ACT

To amend Article 1 of Chapter 12 of Title 15 of the Official Code of Georgia Annotated, relating to general provisions for juries, so as to change provisions relating to exemptions and postponement of jury duty; to provide a short title; to provide a statement of policy; to provide for guidelines for exemptions for jury duty; to provide for the implementation of a juror management program in each state and superior court; to provide for the completion of jury duty; to provide for exemptions; to change provisions relating to a juror's failure to appear for jury service and create a new offense of failure to appear for jury duty; to create a lengthy trial fund for certain types of cases; to provide for funding, eligibility for, and administration of the lengthy trial fund; to provide for a juror's wage replacement or supplementation; to provide for exceptions; to amend Code Section 34-1-3 of the Official Code of Georgia Annotated, relating to discrimination against an employee for attending a judicial proceeding in response to a court order or process, so as to change provisions regarding a certain type of discrimination; to provide for related matters; to provide for effective dates; to provide for applicability; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

**SECTION 1.**

This Act shall be known and may be cited as the "Patriot Jury Act."

**SECTION 2.**

It is the policy of this state that all qualified citizens have an obligation to serve on petit juries when summoned by the courts of this state, unless excused.

**SECTION 3.**

Article 1 of Chapter 12 of Title 15 of the Official Code of Georgia Annotated, relating to general provisions for juries, is amended by striking Code Section 15-12-1, relating to exemptions for jury duty, and inserting in lieu thereof the following:

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1 "15-12-1.

2 (a)(1) Any person ~~who shows that he or she will be engaged during his or her term of~~  
3 ~~jury duty in work necessary to the public health, safety, or good order or who shows other~~  
4 ~~good cause why he or she should be exempt from jury duty~~ summoned for jury service  
5 ~~may be excused~~ have his or her service postponed by the judge of the court to which he  
6 or she has been summoned or by some other person who has been duly appointed by  
7 order of the chief judge to excuse jurors one time only. Such a person may exercise such  
8 authority only after the establishment by court order of guidelines governing ~~excuses~~  
9 postponements. ~~Any order of appointment shall provide that, except for permanently~~  
10 ~~mentally or physically disabled persons, all excuses~~ Postponements shall be granted  
11 provided that the juror has not previously been granted a postponement.

12 (2) A postponed prospective juror's service shall be deferred to a date and time certain  
13 within that term or the next succeeding term or shall be deferred as set forth in the court  
14 order of court.

15 (3) A subsequent request to postpone jury service may be approved by the judge of the  
16 court to which he or she has been summoned in the event of an extreme emergency, such  
17 as a death in the family, sudden grave illness, a natural disaster, or a national emergency  
18 in which the prospective juror is personally involved, that could not have been anticipated  
19 at the time the initial postponement was granted.

20 (4) A judge of the court to which a prospective juror has been summoned shall postpone  
21 the service of a summoned juror whose employer has five or fewer full-time employees  
22 if another employee of the employer is summoned to appear during the same period.  
23 Postponement pursuant to this paragraph shall not affect the prospective juror's right to  
24 one automatic postponement pursuant to paragraph (1) of this subsection.

25 (b) A person may be excused from jury service by the judge of the court to which he or she  
26 has been summoned for a period of up to 24 months instead of seeking a postponement if:

27 (1) The prospective juror has a mental or physical condition that causes him or her to be  
28 incapable of performing jury service. The prospective juror, or someone acting on behalf  
29 of the prospective juror, shall provide the court with documentation from a physician  
30 licensed to practice medicine or a licensed psychologist verifying that a mental or  
31 physical condition renders the prospective juror unfit for jury service for the period for  
32 which the excuse is sought;

33 (2) The prospective juror ~~Notwithstanding paragraph (1) of this subsection, any person~~  
34 ~~who~~ is a full-time student at a college, university, vocational school, or other  
35 postsecondary school who, during the period of time the student is enrolled and taking  
36 classes or exams, requests to be excused or deferred from jury duty ~~shall be excused or~~  
37 ~~deferred from jury duty.~~

(3) The prospective juror ~~Notwithstanding paragraph (1) of this subsection, any person who is the primary caregiver having active care and custody of a child under four years of age~~ an individual, who executes an affidavit on a form provided by the court stating that ~~such~~ the person is the primary caregiver having active care and custody of a ~~child under four years of age~~ an individual and stating that ~~such~~ the person has no reasonably available alternative ~~child care~~ for the individual, and who requests to be excused or deferred ~~shall be excused or deferred~~ from jury duty. It shall be the duty of the court to provide affidavits for the purpose of this subsection: paragraph:

(4) The prospective juror will suffer physical hardship that will result in illness or disease; or

(5) The prospective juror will suffer undue or extreme financial hardship by incurring costs that will have a substantial adverse impact on the payment of the prospective juror's necessary daily living expenses or on those for whom the prospective juror is the principal means of support. Undue or extreme financial hardship shall not exist solely based on the fact that a prospective juror will be required to be absent from his or her employment.

(c) Any person seeking exemption under subsection (b) of this Code section shall be required to provide the judge with documentation, such as, but not limited to, federal and state income tax returns, medical statements from licensed physicians or psychologists, or proof of dependancy or guardianship, which shall clearly support the person's request for deferred or permanent excusal from jury service. A person who is temporarily excused from jury service shall become eligible to serve as a juror once the period of exemption has expired. A person shall only be permanently excused from jury service based on a judge determining that the underlying basis for exemption is of a permanent nature.

~~(b)~~(d) Any person who is 70 years of age or older shall be entitled to request the board of jury commissioners to remove such person's name from the jury list of the county. Upon such request the board of jury commissioners shall be authorized and directed to remove the person's name from the jury list. The request shall be made to the board or its clerk in writing and shall be accompanied by an affidavit giving the person's name, age, and such other information as the board may require. The board of jury commissioners of each county shall make available affidavit forms for the purposes of this subsection."

#### SECTION 4.

Said article is further amended by striking Code Section 15-12-3, relating to term of service on a jury, and inserting in lieu thereof the following:

1 "15-12-3.

2 (a) Not later than October 1, 2006, each state court and each superior court shall  
3 implement a juror management program pursuant to which a person shall be deemed to  
4 have fulfilled his or her jury service obligation when he or she has:

5 (1) Served on one trial until discharged;

6 (2) Been assigned on one day to one or more trial departments for jury selection and  
7 served through the completion of jury selection or until excused by the jury  
8 commissioner;

9 (3) Attended court but was not assigned to a trial department for jury selection before the  
10 end of that day;

11 (4) Served one day on call; or

12 (5) Served no more than five court days on telephone standby, if such a program exists  
13 in the county in which a prospective juror is summoned to serve.

14 (b)(1) The Supreme Court may grant an exemption from the requirements of subsection  
15 (a) of this Code section for a specified period of time if the requesting court demonstrates  
16 good cause by establishing that:

17 (A) The cost of implementing the provisions of subsection (a) of this Code section is  
18 so high that the court would be unable to provide essential services to the public if  
19 required to implement such a system; or

20 (B) The requirements of subsection (a) of this Code section cannot be met because of  
21 the size of the population in the county compared to the number of jury trials  
22 conducted.

23 (2) A requesting court shall submit an application for exemption from the provisions of  
24 subsection (a) of this Code section to the Supreme Court not later than July 1, 2006. The  
25 application shall demonstrate good cause for the exemption sought and shall include  
26 either:

27 (A) A plan to comply fully with subsection (a) of this Code section by a specified date;  
28 or

29 (B) An alternative plan that would advance the purposes of subsection (a) of this Code  
30 section to the fullest extent possible, taking into consideration the conditions in the  
31 affected county.

32 (3) If the Supreme Court finds good cause, it may grant an exemption for a limited period  
33 of time on such conditions as it deems appropriate to further the purposes of subsection  
34 (a) of this Code section.

35 (c) No person shall be compellable to serve on the grand or trial jury of the superior court  
36 or on any jury in other courts for more than four weeks in any year. No person shall be  
37 allowed to serve on the trial jury of the superior court or as tales juror in any criminal case

1 or on any jury in other courts for more than four weeks in any one year unless he or she is  
2 actually engaged in the trial of a case when the four weeks expire, in which case he or she  
3 shall be discharged as soon as the case is decided."

#### 4 SECTION 5.

5 Said article is further amended by striking Code Section 15-12-10, relating to a juror's failure  
6 to appear, and inserting in lieu thereof the following:

7 "15-12-10.

8 Any ~~If any~~ person is drawn as a juror and duly summoned to appear as ~~such a juror~~ at court,  
9 or summoned as a tales juror, ~~and~~ who neglects or refuses to appear, or ~~if any juror who~~  
10 absents himself or herself without leave of the court, ~~said neglect, refusal, or absence may,~~  
11 after notice and hearing, be punished as contempt of court. A second offense shall be  
12 punished as contempt of court punishable by a period of community service the length of  
13 which shall be at the discretion of the court. A third and each subsequent offense shall  
14 constitute a misdemeanor, and upon conviction thereof the offender shall be punished by  
15 a fine not to exceed \$250.00. The driver's license of a person who fails to appear at a  
16 hearing on a show cause order issued for failing to respond to a summons for jury duty  
17 may, at the court's discretion, be suspended for a period of 30 days. The court shall notify  
18 the Department of Motor Vehicle Safety in writing of the suspension."

#### 19 SECTION 6.

20 Said article is amended further by adding a new Code section to the end of the article to read  
21 as follows:

22 "15-12-12.

23 (a) The Supreme Court of Georgia shall establish, by rules, a lengthy trial fund for state  
24 courts that shall be administered by each county that shall be used to provide wage  
25 replacement or supplementation to jurors who serve on trial juries in civil cases after the  
26 third day of jury service. The court rules shall provide for the following:

27 (1) The selection and appointment of an administrator for each county's lengthy trial  
28 fund;

29 (2) Procedures for the administration of the fund including payments of salaries of the  
30 administrator and other necessary personnel; and

31 (3) Procedures for the accounting, administration, auditing, and investment of money in  
32 the lengthy trial fund.

33 (b) Unless otherwise exempted by this Code section, each trial court shall collect from  
34 each attorney filing a civil case an additional filing fee of \$8.00 per case to be paid into the  
35 lengthy trial fund. A case shall be considered filed for purposes of this subsection at the

1 time the first pleading or other filing is submitted to the clerk for filing that opens a new  
2 case. All fees collected by the clerk shall be forwarded to the administrator of the lengthy  
3 trial fund.

4 (c)(1) As ordered by a court, the administrator shall use the fees deposited in the lengthy  
5 trial fund to pay replacement or supplementation wages to any juror who would otherwise  
6 be eligible to be excused from jury service pursuant to paragraph (5) of subsection (b) of  
7 Code Section 15-12-1 beginning on the fourth day of jury service. The amount paid from  
8 the lengthy trial fund shall not exceed the amount needed to relieve the financial hardship  
9 and in no event shall exceed \$100.00 per day per juror.

10 (2) As ordered by a court, the administrator shall use the fees deposited in the lengthy  
11 trial fund to pay replacement or supplementation wages, not to exceed \$300.00 per day  
12 per juror, to any juror beginning on the tenth day of jury service.

13 (3) The court may, in its discretion, limit the amount of disbursements from the lengthy  
14 trial fund based on the availability of resources.

15 (d) Any juror who qualifies for payment from the lengthy trial fund may submit a request  
16 for payment from the lengthy trial fund on a form provided by the administrator. The form  
17 shall disclose the juror's regular wages, the amount the employer paid the juror during the  
18 term of jury service, the amount of replacement or supplementation wages requested, and  
19 any other information the administrator deems necessary to process the request. Prior to  
20 payment from the lengthy trial fund, the juror shall submit verification of wage information  
21 from his or her employer, including but not limited to, the juror's most recent earnings  
22 statement. If a juror is self employed or receives compensation other than wages, the juror  
23 may provide a sworn affidavit attesting to his or her approximate gross weekly income  
24 together with any other information requested by the administrator to verify the juror's  
25 income. Replacement or supplementation wage payments shall be limited to the difference  
26 between the state paid jury fee and the actual amount of wages a juror earns, up to the  
27 maximum level of payment, less any amount the juror actually receives from his or her  
28 employer during the same period.

29 (e) The following persons and causes of action are exempt from payment of the lengthy  
30 trial fee:

31 (1) Government attorneys appearing in the course of their official duties;

32 (2) Pro se litigants;

33 (3) Cases filed in magistrate court; or

34 (4) Claims seeking disability determinations, recoupment actions for government backed  
35 educational loans or mortgages, child custody or child support cases, actions brought in  
36 forma pauperis, and any other filing designated by the Supreme Court rule that involves  
37 minimal use of court resources and that is customarily not tried by a jury."

**SECTION 7.**

Code Section 34-1-3 of the Official Code of Georgia, relating to discrimination against an employee for attending a judicial proceeding in response to a court order or process, is amended by striking said Code section and inserting in lieu thereof the following:

"34-1-3.

(a) It shall be unlawful for any employer or the agent of such employer to discharge, discipline, or otherwise penalize an employee because the employee is absent from his or her employment for the purpose of attending a judicial proceeding in response to a subpoena, summons for jury duty, or other court order or process which requires the attendance of the employee at the judicial proceeding. An employer shall not require or request an employee to use annual, vacation, or sick leave for time spent responding to a summons for jury duty, time spent participating in the jury selection process, or for time spent actually serving on a jury. Nothing in this subsection shall be construed to require an employer to provide annual, vacation, or sick leave to employees who otherwise are not entitled to these types of benefits under company policies. It shall be unlawful for any employer or the agent of such employer to threaten to take or communicate an intention of taking any action declared to be unlawful by this subsection.

(b) Any employer or agent of such employer who violates subsection (a) of this Code section shall be liable to the injured employee for all actual damages thereby suffered by the employee and for reasonable attorney's fees incurred by the employee in asserting a successful claim under this Code section.

(c) This Code section shall not apply to an employee who is charged with a crime, nor shall it prohibit an employer from requiring an employee to abide by regulations requiring reasonable notification to an employer of the employee's expected absence or delay in reporting to work in order to attend a judicial proceeding."

**SECTION 8.**

Section 4 of this Act shall become effective on October 1, 2006. All other sections of this Act shall become effective on July 1, 2006, and apply to all cases filed or tried on or after July 1, 2006.

**SECTION 9.**

All laws and parts of laws in conflict with this Act are repealed.